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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 JOHN DEGEN SR.,

7 Plaintiff,

8 v.

9 WASHOE COUNTY DISTRICT
ATTORNEY, *et al.*,

10 Defendant.

Case No. 3:19-cv-00597-MMD-CLB

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
CARLA L. BALDWIN

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12 *Pro se* Plaintiff John Degen Sr. brings this civil rights case pursuant to 42 U.S.C. §
13 1983. Before the Court is the Report and Recommendation (“R&R”) of United States
14 Magistrate Judge Carla L. Baldwin relating to Plaintiff’s application to proceed *in forma*
15 *pauperis* (ECF No. 5) and amended complaint (ECF No. 3). (ECF No. 11.) Plaintiff had
16 until March 13, 2020, to file an objection. To date, no objection to the R&R has been filed.
17 The Court will accept and adopt the R&R in full.

18 This Court “may accept, reject, or modify, in whole or in part, the findings or
19 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
20 fails to object the Court is not required to conduct “any review at all . . . of any issue that
21 is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also*
22 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (“De novo review of the
23 magistrate judges’ findings and recommendations is required if, but *only* if, one or both
24 parties file objections to the findings and recommendations.”) (emphasis in original); Fed.
25 R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the court “need only satisfy
26 itself that there is no clear error on the face of the record in order to accept the
27 recommendation”).

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1 Although no objection has been filed, this Court finds it appropriate to engage in de
2 novo review to determine whether to adopt Judge Baldwin's R&R. Upon reviewing the
3 R&R and amended complaint, the Court determines that the R&R should be accepted.

4 Judge Baldwin recommends that the Court grant Plaintiff's application to proceed
5 *in forma pauperis* because Plaintiff is unable to pay the filing fee in this matter. (ECF No.
6 11 at 2.) Judge Baldwin, after liberally construing the amended complaint, further
7 recommends that Plaintiff's lawsuit be dismissed without prejudice because Plaintiff's
8 claims, which essentially challenges his state-court criminal conviction, are barred under
9 *Heck v. Humphrey*, 512 U.S. 477 (1994). (*Id.* at 3–4.) Judge Baldwin otherwise notes that
10 Defendant Washoe County District Attorney is absolutely immune from suit under § 1983.
11 (*Id.* at 4–5.) The Court agrees that Plaintiff should proceed *in forma pauperis*. Having
12 reviewed the amended complaint, the Court also finds in accordance with Judge Baldwin
13 and will accept her recommendation to dismiss this action without prejudice.

14 It is therefore ordered, adjudged and decreed that the Report and Recommendation
15 of Magistrate Judge Carla L. Baldwin (ECF No. 11) be accepted and adopted in its entirety.

16 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF
17 No. 5) is granted.

18 It is further ordered that the Clerk of the Court file the amended complaint (ECF No.
19 3).

20 It is further ordered that the amended complaint is dismissed without prejudice and
21 without leave to amend.

22 It is further ordered that the Clerk enter judgment accordingly and close this case.

23 DATED THIS 23rd day of March 2020.

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26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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